



April 13, 2021

Via ECF
Hon. Ronnie Abrams
U.S. District Court Judge
Southern District of New York
United States Courthouse
40 Foley Square
New York, New York 10007

Re: Newberry, et al. v. Sri Prayal
Wijegoonaratna, et al., 21 CV 2705 (RA)

Dear Judge Abrams:

We are the attorneys for the plaintiffs in the above-entitled action, and request leave to serve the Summons¹ and Complaint (Doc. 1) and the Order and Notice of Initial Conference (Doc. 19) in this action on defendant AFT Analytics, Inc. (“AFT”) either by mail or email to the residence of Sri Prayal Wijegoonaratna, the corporation’s Chief Executive Officer, who is also a defendant in this action.

We attempted service on this corporation at the office address we believed AFT occupied, but the process server did not find AFT there, and was informed that the corporation had not occupied that office location in more than two years. See Ex. A, affidavit of process server Eric Rubin. We based our belief that AFT occupied an office at that location on AFT’s registration of that location with the N.Y. Secretary of State. See Ex. B (print-out of AFT’s N.Y. Secretary of State registration).

¹ If this application is granted, we will seek issuance of an Amended Summons to reflect a change in the service address of defendant AFT Analytics, Inc., and then would serve on AFT the Complaint with such Amended Summons.

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We request that your Honor direct that service of the summons and complaint on defendant AFT be sufficient if made by U.S. mail or email to defendant Sri Prayal Wijegoonaratna, an officer of the corporation. Indeed, according to AFT's most recently filed tax return, AFT is located at 38 Warren Street, Apt. 6A, New York, New York 10007, which is the residence of defendant Wijegoonaratna and Mr. Wijegoonaratna is AFT's Chief Executive Officer. See Ex. C (AFT 2019 U.S. Tax Return Cover Page).

Pursuant to FRCP Rule 4(h)(1)(A) a domestic corporation may be served in the manner prescribed by FRCP Rule 4(e)(1) for serving an individual. An individual may be served, pursuant to FRCP 4(e)(1) by "following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located." The N.Y. C.P.L.R. § 311 provides, "[i]f service upon a domestic or foreign corporation within the one hundred twenty days ... is impracticable ..., service upon the corporation may be made in such manner, and proof of service may take such form, as the court, upon motion without notice, directs."

Accordingly, Plaintiffs request that your Honor direct that service of an amended summons and complaint on defendant AFT be sufficient if made by U.S. mail to the residence of defendant Wijegoonaratna at 38 Warren Street, Apt. 6A, New York, New York 10007 or email to defendant Sri Prayal Wijegoonaratna at spwije@gmail.com (which is known to the undersigned as Mr. Wijegoonaratna's current email address).

Should your Honor or your Chambers have any questions concerning this application, please contact the undersigned by telephone at 917-330-6152 or by email to taholman@holmanlawoffice.com.

Respectfully submitted,


Thomas A. Holman

Attachments: Exhibits A-C

Application granted. Defendant AFT Analytics, Inc. shall be served by mail at to residence of Defendant Sri Prayal Wijegoonaratna.

SO ORDERED.



Hon. Ronnie Abrams
April 14, 2021